

BOMBAY ACT No. XXII OF 1946.¹

[THE BOMBAY ESSENTIAL COMMODITIES AND CATTLE (CONTROL)
ACT, 1946.]

[30th September, 1946]

Amended by Bom. 7 of 1948.

" " " 47 of 1948.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 30 of 1950.

" " " 37 of 1951.

" " " 23 of 1952.

" " " 43 of 1954.

An Act to provide for the control and regulation of the production, movement, supply and distribution of, trade and commerce in, essential commodities, and the maintenance and movement of cattle.

WHEREAS it is expedient to provide for the control and regulation of the production, movement, supply and distribution of certain commodities essential to the life of the community, and for the control and regulation of trade and commerce therein, and for the maintenance, licensing and movement of cattle, and the licensing of dealers in such commodities and cattle, and for certain other purposes; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Essential Commodities and Cattle (Control) Act, 1946. Short title, extent, commencement and duration.

(2) It extends to the whole of the ²[State] of Bombay.

(3) It shall come into force on the first day of October 1946.

(4) It shall remain in force for a period of ³[eleven] years.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(1) "cattle" means any of the animals specified in Schedule II;

(2) "essential commodity" means a commodity specified in Schedule I;

(3) "notified order" means an order notified in the *Official Gazette*.

3. The ⁴[State] Government may, by notification in the *Official Gazette*, direct additions to or omissions from either schedule whether generally or with reference to any particular area specified in the notification, and the schedule shall on the issue of the notification be deemed to be amended accordingly. Amendment of schedules.

4. (1) The ⁴[State] Government, so far as it appears to it to be necessary or expedient for maintaining or increasing the supply or for securing the equitable distribution and availability at fair prices, of any essential commodity or cattle may, by ⁵[order] provide for— Powers to control production, supply, distribution, etc.

(a) regulating or prohibiting the production, supply and distribution of, or trade and commerce in such essential commodity;

(b) regulating the maintenance, supply and distribution of, or trade and commerce in, cattle.

(2) Without prejudice to the generality of the powers conferred by sub-section (1) an order made thereunder may provide—

(a) for regulating by licence, permit or otherwise the production or manufacture of any essential commodity;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1946, Pt. V, pages 223-224; and for Proceedings in Assembly, see *Bombay Legislative Assembly Debates*, 1946, Vol. IX; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1946, Vol. X.

² This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

³ This word was substituted for the word "eight" by Bom. 43 of 1954, s. 2.

⁴ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁵ This word was substituted for the words "notified order" by Bom. 37 of 1951, s. 2.

(b) for regulating by licence, permit or otherwise the storage, movement, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;

(c) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

(d) for requiring any person holding stocks of an essential commodity to sell them at specified prices to a specified person or class of persons or in specified circumstances;

(e) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(f) for controlling the prices at which any essential commodity or cattle may be brought or sold;

(g) for regulating by licence, permit or otherwise the movement, transport, distribution, disposal, acquisition, use and keeping of cattle;

(h) for requiring persons engaged in the production, supply or distribution of, trade or commerce in, any essential commodity or cattle—

(i) to maintain,

(ii) to produce for inspection,

any books, accounts and records, relating to their business, and to furnish any information relating to such business;

(i) for requiring owners as well as persons-in-charge of milch cattle, and dealers in milk—

(i) to maintain,

(ii) to produce for inspection,

any books, accounts and records relating to the production of milk and the number of cattle owned, controlled and maintained by them;

(j) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles and vessels, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed¹ [and of any vehicle, vessel or animal which he has reason to believe has been, is being or is about to be used for carrying such articles,] the grant or issue of licences, permits or other documents, and the charging of fees therefor.

Continuation
of orders,
etc., issued
under
Defence of
India Rules.

5. Every order made under the Defence of India Rules, in respect of any essential commodity or cattle, and every appointment made, licence granted, permit issued and direction given in respect of the same under the said rules or such order, and which was in force immediately before the commencement of this Act, shall in so far as it could validly have been made, granted, issued or given as the case may be, under the provisions of this Act, be deemed to have been made, granted, issued or given thereunder.

Publication
and service
of orders.

6. (1) Every order made under section 4 shall—

(a) if it is an order of a general nature or affecting a class of persons, be published² [in the *Official Gazette*];

(b) if it is an order affecting an individual corporation or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908;

¹ These words were inserted by Bom. 7 of 1948, s. 2.

² These words were substituted for the words "in the manner prescribed by rules made in this behalf" by Bom. 37 of 1951, s. 2.

(c) if it is an order affecting an individual person other than a corporation or firm, be served on the person—

(i) personally, by delivering or tendering to him the order, or

(ii) by post, or

(iii) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(2) Where a question arises whether a person was duly informed of an order made in pursuance of section 4, compliance with the requirements of sub-section (1) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

7. Any order made or deemed to be made under section 4 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Effect of orders inconsistent with other enactments.

8. The ¹[State] Government may by notified order direct that the power to make orders under section 4 shall be also exercisable by such officer or authority and in relation to such matters and subject to such conditions, if any, as may be specified in the order.

Delegation of powers.

9. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the interest of the ²[State].

Ordinary avocations of life to be interfered with as little as possible.

10. (1) If any person contravenes any order made or deemed to be made under section 4 he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Penalties.

(2) Any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened ³[and any vehicle, vessel or animal which the Court is satisfied has been used with the knowledge of the person having the control thereof for carrying such property] shall be forfeited to ⁴[Government].

11. Any person who attempts to contravene, or abets a contravention of, any order made or deemed to be made under section 4, shall be deemed to have contravened that order.

Attempts etc. to contravene orders.

¹ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

² This word was substituted for the word "Province", *ibid.*

³ These words were inserted by Bom. 7 of 1948, s. 2.

⁴ This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

- Offences by corporations. 12. If the person contravening an order made or deemed to be made under section 4 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.
- Cognizance of offences. 13. No court shall take cognizance of any offence punishable under this Act, XLV except on a report in writing of the facts constituting such offence made by a person of 1860. who is a public servant as defined in section 21 of the Indian Penal Code.
- Power to try offences summarily. 14. Any Magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by V of the prosecution, try in accordance with the provisions contained in sections 262 to 1898. 265 of the said Code any offence punishable under this Act.
- Protection of action taken under Act. 15. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4.
- (2) No suit or other legal proceeding shall lie against the ¹[Government] for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4. -
- Rules. 16. ²* The ³[State] Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

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¹ This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

² The brackets and figure "(1)" were deleted by Bom. 37 of 1951, s. 4.

³ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁴ Sub-section (2) was deleted by Bom. 37 of 1951, s. 4.

SCHEDULE I.
Essential commodities.

1[1. Bricks used for building purposes.]

2* *

1[3. Charcoal excluding coke.]

24. Firewood.

2* *

4* *

4* *

2* *

4* *

10. Mowra seeds and Mowra Oil ;

4* * *

4* * *

4* * *

5* *

4* *

4* *

4* *

6* *

4* *

7[22. Molasses.]

8[Ammonia Sulphate.]

9[24. Foodstuffs other than salt, sugar, vanaspati and vegetable oils.

SCHEDULE II.

Cattle.

1. Bulls.

4. Heifers.

7. Goats.

2. Bullocks.

5. Calves.

8. Sheep.

3. Cows.

6. Buffaloes.

¹ These entries were substituted for the original by Bom. 43 of 1954, s. 3 (1).² The following essential commodities were deleted by Bom. 23 of 1952, s. 3, namely :—³ 2. Cattle feed of all kinds, including cotton-seed, hay, kadbi, green grass, oil cakes, wheat bran

* gawar and other concentrates but excluding challa and chuni other than gram chuni.

5. Milk.

8. Cotton (whether ginned or unginned).

14. Rice husk ;"

The proviso to section 3 reads as under :—

"Provided that such deletion shall not affect the validity of any existing appointment made or deemed to have been made, order or direction issued or deemed to have been issued, licence or permit granted or deemed to have been granted or any pending proceeding commenced under the said Act with respect to control and regulation of the production, movement, supply and distribution of the aforesaid essential commodities and for the control and regulation of trade and commerce therein and any such appointment, order, direction, licence or permit shall continue in force until it is cancelled by a competent authority under any law for the time being in force and any such proceeding shall be disposed of as if the aforesaid essential commodities had not been deleted from the said Schedule."

⁴ All the existing entries after entry "3 Charcoal" were deleted and entries 4 to 20 were added by G. N., C. S. D., No. 410/II-B, dated the 11th June 1949 :—⁵ The following entries were deleted by Bom. 43 of 1954, s. 3 (2).

"6. Ready Made Clothing of all kinds.

12. Ready made Tea.

18. Timber.

13. Ready Made Coffee.

19. Lime.

7. Cement.

15. Sand.

21. Drugs as defined in clause

9. Gunnies and Twine.

16. Tiles (Mangalore Pattern).

(b) of section 3 of the Drugs Act, 1940 (XXIII of 1940)."

11. Oil Engines.

17. Asbestos cement sheets.

⁶ The entry "14. Rice Husk" was deleted by Bom. 23 of 1952, s. 3.⁷ The entry "20. Coke" was deleted by G. N., C. S. D., No. 410(2)II-B, dated the 7th March 1950.⁸ This entry was added by G. N., R. D., No. 3143/49, dated the 21st September 1950.⁹ This entry was added by G. N., C. S. D., No. 410/II-B, dated the 31st March 1952.¹⁰ This entry was added by G. N., C. S. D., 719/117/II-A dated the 24th January 1955.